

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING: Friday, August 31, 2001, 1:30 p.m., City Council Chambers, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: Linda Wibbels, Gerry Krieser, Gene Carroll, and George Hancock

Others: Rick Peo (City Attorney's Office), Rodger Harris (Building & Safety), Jason Reynolds and Missy Minner (Planning Department), applicants and other interested parties.

STATED PURPOSE

OF THE MEETING: Regular Monthly Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion approving the minutes of the July 27, 2001 meeting. Motion for approval made by Krieser, seconded by Wibbels. Motion carried 3-0; Krieser, Wibbels, and Carroll voting 'yes'; Hancock abstaining.

City Board of Zoning Appeals No. 2313

Requested by Duane Burham, on behalf of Church of Christ Lincoln, for a variance to the front yard setback on property located at 5640 Vine Street.

PUBLIC HEARING

August 31, 2001

Members present: Wibbels, Krieser, Hancock, and Carroll

Duane Burham, 2631 S 40th Street, appeared on behalf of the Church of Christ Lincoln. This is a misunderstanding that began in the fall of 2000, when the City started the Vine Street widening project. At that time, the church worked with the City engineers who wanted them to close their driveway off Vine Street. The church decided to put a drive in front of church that would exit onto 57th Street. The City thought that was probable and reasonable. Additionally, the church wanted to build a canopy in front of the building over the driveway. The church believed the request for the driveway and canopy was a "package deal."

When they received an approval of the plan signed by John Bradley, they thought the canopy was approved at that time as well. They have since been informed that is not the case. The Administrative Amendment that was approved was for the driveway only. It did not include the canopy. The City informed them that they would have to go through the zoning appeal process to request approval to allow the canopy to be built.

A few members of community have called him about this. Most were in favor of the project and felt it would be an enhancement to the congregation and would not infringe on any of the environmental issues, sight line issues, or traffic hazard issues.

Krieser asked if the structure is open on the sides except for the pillars. Burham stated that the structure is a roof fastened to the building on one end with 2 columns at the other end.

Wibbels asked if this is in compliance with the line of sight requirements. Burham stated that the church had not requested that be looked at specifically, but they assumed that it was. Approval of the building permit

was given with the exception of the setback.

Carroll asked the height of the structure. Burham estimated it to be about 10'4". He added that there are adequate footings in place.

Wibbels wanted to know the distance from the first post to the intersection. Burham thought it would be about 65' to the curb line and about 50' to the property line. He added that the brick sign that is set in concrete will stay. This is a memorial sign that was dedicated to a member of the church who passed away years ago.

Wibbels asked what would happen should the Board grant the variance only to have traffic deny the request due to sight lines. Peo stated that the request is to waive the front yard. The sight triangle is a different ordinance and would supercede the variance. With respect to this application, even if the City was at fault in not catching the mistake with the issue of the canopy, there has been no testimony to indicate that the church was caused to act differently because of it. If the church were to come straight in by way of the prior driveway, they would still have this same problem. There is nothing to indicate that they were caused a land use hardship.

Wibbels asked if traffic has reviewed this plan. Harris doubted that they had. He indicated that most of the applications they have are sufficient to show compliance with the zoning code. Therefore, they wouldn't ask for full structural drawings. While he cannot answer for the Traffic Department, there do not seem to be any problems.

With no one further appearing, the public hearing was closed.

ACTION

August 31, 2001

Members present: Wibbels, Krieser, Hancock, and Carroll

Carroll moved approval with the condition that the variance is limited to the construction of a permanently unenclosed canopy, seconded by Krieser.

Motion for conditional approval carried 4-0; Carroll, Krieser, Wibbels, and Hancock voting 'yes'.

City Board of Zoning Appeals No. 2314

Requested by Dave Erickson, on behalf of Deborah Larson, for a variance to the front yard setback on property located at 1330 Fall Creek Road.

PUBLIC HEARING

August 31, 2001

Members present: Wibbels, Krieser, Hancock, and Carroll

Dave Erickson, Erickson Sullivan Architects, appeared on behalf of Deb Larson and Jim [inaudible]. Their home is on the corner of Fall Creek Road and A Street. It was built in 1958 by John Lawlor. One unique aspect of this house is that it remained in the Lawlor family's ownership until 10 years ago when Deb Larson bought it. It has remained virtually untouched since that time. It is unique for a 43 year old home to only have had two owners.

The application before the Board is for a proposed garage addition which is part of a significant investment in the home. They are currently constructing a European style kitchen and associated interior fit outs to that project.

His purpose is to outline the aspects of the property that make it unique, unusual, exceptional, or peculiar. The house is located in Piedmont which is one of Lincoln's premiere neighborhoods. There are many fine homes in that area. By Piedmont standards, this house is fairly modest. This is a single story brick ranch home of approximately 2,300 livable square feet.

When comparing this property with newly platted lots in a new upper scale development in Lincoln, such as Wilderness Ridge, you find that this is a large lot by dimension and square footage. It is a little over 20,000 square feet compared to a little under 12,000 square feet in Wilderness Ridge. The unusual part of this lot is that it is triangular and on a corner. Therefore it is faced with two front yard setbacks. The total area of setbacks for the Piedmont property is 14,497 square feet, which represents 70% of the lot. The Wilderness Ridge lot setbacks total 6,400 square feet which is about 55% of that lot.

They are proposing to add a single stall garage addition to the relatively small existing 2 stall garage. Three stall garages are not uncommon in the area, there is a 3 stall garage across street which was built with the house probably in the 60s. Next to that, there is a major addition that is just being completed which includes a 3-stall garage. Within two blocks from this property there is a 5-stall garage.

They would like to invest in this existing neighborhood. This project will enhance the value of property in the area rather than detract from it. His firm has a philosophy of design that when facing changes to existing buildings, they do not set out to make an architectural statement. This addition is being planned to be 100% congruent with the architectural fabric of the home. Architecturally, this is a very simple project.

He distributed computer generated photo composites showing the existing home and landscape and what the apparent new look with proposed garage addition would be. He described the differences as subtle.

The addition is approximately 13 feet beyond the existing house and exactly matches the existing house in scale, shape, material, color, and roof line profile. When completed, he would be surprised if a passerby would recognize it as being anything but part of the original construction.

The property has a lot of lush mature landscaping, none of that will be removed as part of this project. One existing Japanese Maple tree will be relocated on the property and additional landscaping will be added.

With regard to safety, this garage addition in no way impedes into the sight triangle of the Fall Creek Drive and A Street intersection. The corner of the proposed addition is 99 feet 5 inches from the corner of the property which puts it well beyond 100 feet of the curb line. The original circular drive will remain. Safety will not be compromised by this addition.

This project is unique because of the unusual and peculiar shape of the lot and the resulting inordinately large square footage setback areas compared to new or existing lots in the area. Three-stall garages by remodeling and new home construction are the norm rather than the exception. They are enhancing the property and increasing the tax base. This project is consistent with the intent of the R-1 zoning district. They are maintaining the architectural integrity of the home and neighborhood. They are maintaining and adding landscaping materials to further enrich the Piedmont aesthetic. They are not diminishing the safety of the public at large and the impact to the neighboring properties is minimal.

Carroll asked the depth of the garage. Erickson stated that it is 22 feet 8 inches parallel to car depth. It is 13 feet 3 inches past the northwest corner of the existing garage. This is a small garage addition by comparison. It seems that people have more outside yard equipment now than they did in 1958 and this house does not

have a wealth of storage on the property.

Carroll asked if they considered moving the existing garage and new garage toward Fall Creek Road to stay within the property setback. Erickson stated that they considered a design that tried to deepen the garage to the front setback line. That resulting depth was not enough to stack one car in front of the other. This is most straightforward way to gain this type of addition.

John Long, 1414 S 52nd Street, appeared. There is one house between his home and the home in question. He has lived at that address for 21 years and is opposed to this variance. Over the past 21 years, there have been numerous occasions when 1 person or another wanted to intrude on the setback requirements or wanted a variance or other action that was at variance with the way the neighborhood is structured right now. All of the people in the neighborhood consistently supported each other in opposing things that will change the character and nature of the neighborhood. The City has been very consistent in enforcing the setback requirements and not allowing variances. At the City's request, the previous owner of his home purchased one foot of land from the neighbor in order to complete a home addition that was half completed. They would not grant a variance for that at that time. He is appearing in the idea that they want to keep things the way they are.

While he appreciates the remarks of Mr. Erickson in regard to comparing their neighborhood to new neighborhoods out south, he thinks that one of the reasons they live there is because those homes were built in a time when developers were not interested in absolutely maximizing profits on land in the same way they are today. They don't want to be compared to the edge of town. As far as the property itself being architecturally unique, he agrees with that 100%. It is one of the entrances to Piedmont, that is all the more reason to keep it in compliance with the character of the neighborhood. He thinks the property should stay the way it is.

Marvin Spitsnogle, 5225 A Street, appeared. His property is immediately across the street to the south looking toward 1330 Fall Creek. He wants Miss Reynolds to enjoy her property and to be a good neighbor, but he is opposed to the addition. It is his understanding that the setback is 30 feet and the corner of the existing garage comes right up to the setback. They are requesting 13 feet 2 inches closer into the setback leaving approximately 16 feet 10 inches of setback off A Street.

He felt the comparison to new areas is comparing apples and oranges. When you start something such as this, it plants seeds and gives other people ideas and 2 or 3 years down the line you get more requests for this type of thing. He and his wife have lived in their home for 38 years and there have been only 2 owners there in 50 years.

He has been a licensed real estate broker for 52 years and has been a licensed Nebraska appraiser. When you purchase a property, you are investing in a neighborhood.

A Street is one of busiest residential streets in Lincoln. Growth is going south and east. There is only one entrance on the south side of Piedmont at Fall Creek. This corner does not have a 90% angle, it has a very sharp angle. This is a bad corner, one of the worst in town.

Eventually there will be a need for some 4-lane streets in Lincoln. He hopes that it won't be A Street, but there is that possibility. If A Street is widened and there is a 17 foot setback, this seems unreasonable. He asks that the Board reject this request.

Raymond Becker appeared. He has lived in Lincoln for 76 years and has lived in Piedmont for 61 years. He

is opposed to this request because it changes the City ordinance or building codes of setback. To his knowledge, that has not been done in this area before.

Another reason he is opposed to this, is the hazardous corner at A Street and Fall Creek Road. When you make a left turn to go east on A Street, you are taking your life in your hands. Turning right is almost as bad. Allowing this building to be closer to A Street will increase the difficulty of seeing traffic approaching from the east.

With no one further appearing, the public hearing was closed.

ACTION

August 31, 2001

Members present: Wibbels, Krieser, Hancock, and Carroll

Wibbels moved approval. Motion for approval died for lack of a second.

Krieser moved denial, seconded by Carroll.

Carroll stated that the Board is empowered to grant a variance only if a peculiar, exceptional, or unusual circumstance exists. There is none in this instance because the applicant has use of a two-stall garage which is adequate space for that size of house. An extension of 13 feet into the right of way is extraordinary for any area in the City. He doesn't believe the Board is able to go that far. There is no unusual circumstance for this application.

Wibbels is against denying the variance because the line of sight distance would still be approximately 100 feet. The sight problem in this area is the grade of A Street. It is unclear from the letters if people are misunderstanding that this would change the ordinance causing a fear that this would open up the neighborhood to an ordinance change or zoning change. This variance does not change that for the neighborhood it is just a change for this particular property. Another statement was made about an instance in which the owner was required to purchase additional land. In this case, she doesn't think the City of Lincoln would sell the land to the applicant. She also believes that corner lots need to be allowed to go into the setback. She believes that they have had other appeals in Piedmont, some of which have been approved and some have been denied. The argument to maintain the integrity of the neighborhood is one thing, but it is also important to keep up with what else is happening if you can make it correct architecturally. This does increase the values of properties. This will not adversely affect the neighborhood. She knows first hand the hardships all of the setbacks on corner lots create.

Hancock stated that the code allows the Board to consider situations that are peculiar, exceptional and unusual which are found in the specific property and are not found in the other properties in the area. It does not say peculiar or exceptional or unusual. It uses the word "and," so all three have to apply in order for a variance to be allowed. He is having a problem finding those circumstances here. The applicant is not being denied reasonable use of the property. He believes this is too much intrusion into the setback.

Motion for denial carried 3-1; Krieser, Carroll, and Hancock voting 'yes'; Wibbels voting 'no'.

There being no further business, the meeting adjourned at 2:26 pm.